

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

KIRSTIE WADE, both individually and  
on behalf of her minor children,  
ABRIANA CHAVEZ, JAYDEN CHAVEZ  
and OSCAR CHAVEZ, JR.,

Plaintiff,

vs.

POTTAWATTAMIE COUNTY, a  
Political Subdivision of the STATE OF  
IOWA,

Defendant.

CASE NO.

**COMPLAINT**

**COMES NOW** the Plaintiff and for her causes of action against the Defendant states and avers as follows:

**JURISDICTION, VENUE and PARTIES**

1. This is an action for money damages for the injuries and damages sustained by Plaintiff Kirstie Wade, and her three minor children: Abriana Chavez, Jayden Chavez and Oscar Chavez, Jr., as a result of a crash caused by Defendant's police pursuit in accordance with Neb. Rev. Stat. § 13-911.

2. At all times material hereto, Plaintiff, Kirstie Wade, was a resident and citizen of Omaha, Douglas County, Nebraska.

3. Plaintiff Kirstie Wade is the mother and legal guardian of her three minor children: Abriana Chavez, Jayden Chavez and Oscar Chavez, Jr.

4. Defendant, Pottawattamie County, is a political subdivision of the State of Iowa and is thus a citizen of the State of Iowa for purposes of diversity jurisdiction.

5. The amount in controversy exceeds \$75,000.00, as Plaintiff's special damages for medical bills alone are far greater than \$75,000.00.

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship between Plaintiff and Defendant exists, and the amount in controversy exceeds \$75,000.00.

### **FACTUAL BACKGROUND**

7. On or about August 22, 2020, Plaintiff Kirstie Wade was driving a vehicle in a safe and reasonable manner heading northbound across the 13<sup>th</sup> Street Bridge over Interstate 80 in Omaha, Nebraska, with her three minor children, Abriana Chavez, Jayden Chavez and Oscar Chavez, Jr., as passengers in the vehicle she was driving.

8. At the same time and place, Trebor Lee Carman ("Carman") was operating a vehicle that was proceeding southbound across the 13<sup>th</sup> Street Bridge in the northbound lane. Carman crashed the vehicle he was operating at a high rate of speed head-on into Plaintiff Kirstie Wade's vehicle.

9. At the time of the crash, Carman was fleeing to avoid apprehension by multiple pursuing police vehicles operated by law enforcement officers employed by Pottawattamie County who were acting within the course and scope of their employment with the Pottawattamie County Sheriff's Office.

10. Prior to the crash, the Pottawattamie County law enforcement officers had been actively attempting to apprehend Carman for approximately ten minutes, pursuing him in their marked vehicles at high rates of speed through

Pottawattamie County, Iowa, and along Interstate 80 into Douglas County, Nebraska, approaching the 13<sup>th</sup> Street bridge where the crash occurred.

11. As a direct result of the crash, Plaintiff Kirstie Wade suffered severe, permanent and debilitating injuries and damages including:

- a. Past medical expenses;
- b. Future medical expenses;
- c. Lost income;
- d. Future loss of earning capacity;
- e. Permanent disability, which will include a lessened ability to enjoy the amenities; and
- f. Physical pain, inconvenience and mental suffering, past, present and future.

12. As a direct result of the crash, minor child Abriana Chavez suffered severe, permanent and debilitating injuries and damages including:

- a. Past medical expenses;
- b. Future medical expenses;
- c. Future loss of earning capacity;
- d. Permanent disability, which will include a lessened ability to enjoy the amenities; and
- e. Physical pain, inconvenience and mental suffering, past, present and future.

13. As a direct result of the crash, minor child Jayden Chavez suffered severe, permanent and debilitating injuries and damages including:

- a. Past medical expenses;
- b. Future medical expenses;
- c. Future loss of earning capacity;
- d. Permanent disability, which will include a lessened ability to enjoy the amenities; and
- e. Physical pain, inconvenience and mental suffering, past, present and future.

14. As a direct result of the crash, minor child Oscar Chavez, Jr. suffered severe, permanent and debilitating injuries and damages including:

- a. Past medical expenses;
- b. Future medical expenses;
- c. Future loss of earning capacity;
- d. Permanent disability, which will include a lessened ability to enjoy the amenities; and
- e. Physical pain, inconvenience and mental suffering, past, present and future.

15. All of the damages referenced above to Plaintiff Kirstie Wade and her minor children, Abriana Chavez, Jayden Chavez, and Oscar Chavez, Jr., were proximately caused by Defendant's police pursuit of Carman in attempting to apprehend him by the use of motor vehicles.

16. Plaintiff has complied with all preconditions to filing a claim under the Nebraska Political Subdivisions Tort Claims Act. On January 18, 2021, the claim was submitted in writing to Defendant, and Defendant acknowledged receipt on March 24, 2021. More than six (6) months has lapsed since Plaintiff's claim was submitted to Defendant, and Plaintiff withdrew her claim from Defendant's consideration on August 12, 2022.

**FIRST CAUSE OF ACTION- STRICT LIABILITY**

17. By virtue of paragraphs 1-16 above, Defendant is strictly liable to Plaintiff for all injuries and damages pursuant to Neb. Rev. Stat. § 13-911 (Reissue 2011), Nebraska's Vehicular Pursuit Law.

**SECOND CAUSE OF ACTION- NEGLIGENCE**

18. By virtue of paragraphs 1-16 above, and such additional discovery necessary, Defendant is liable to Plaintiff for all the injuries and damages by virtue of Defendant's non-compliance with the relevant and applicable regulations concerning motor vehicle pursuit by law enforcement.

**WHEREFORE**, Plaintiff prays for judgment against Defendant for her and her minor children's special damages to date, plus an additional amount for future special damages, all general damages, interest as allowed by law, costs of this action, attorney fees and for such other and further relief as the Court deems just and equitable.

**DATED** this 17<sup>th</sup> day of August, 2022.

KIRSTIE WADE, Plaintiff

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